

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

NAN LU,)
)
Petitioner,)
)
v.) CIVIL ACTION NO.
) 4:11-CV-3580-VEH-TMP¹
ERIC HOLDER, Attorney General, et al.)
)
Respondents.)

MEMORANDUM OPINION

This is an action on a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 by Nan Lu (the “petitioner”),² who claims that he is being illegally detained by the respondents pending his removal from the country and that he is due to be released from custody. The respondents have filed a motion to dismiss this matter as being moot. (Doc. 15). The petitioner also filed a motion to withdraw his petition. (Doc. 14). Upon consideration, it is recommended that the respondents’ motion to dismiss is due to be granted.

¹Petitioner has also filed a second writ of habeas corpus with this court which will be dealt with separately. *See Nan v. Holder*, 4:11-cv-2868-WMA-PWG.

²There is some confusion as to whether the petitioner’s name is Nan Lu or Lu Nan. The documents filed in this case use the two names interchangeably. The court will simply refer to him as the petitioner.

In support of their motion to dismiss, the respondents have filed a copy of an unsworn declaration made pursuant to 28 U.S.C. § 1746 by the Assistant Field Director of the U.S. Immigration and Customs Enforcement facility in Gadsden, Alabama. (Doc. 16). In that declaration it is asserted that the petitioner was released under an order of supervision on October 20, 2011. (*Id.*) As a result of such, the petitioner's habeas claim for release under an order of supervision or for repatriation is moot. *See Nyaga v. Ashcroft*, 323 F.3d 906, 913 (11th Cir. 2003) ("a case must be dismissed as moot if the court can no longer provide 'meaningful relief'").

Based on the foregoing, the government's motion to dismiss this action as moot (Doc. 15) is due to be **GRANTED**. Petitioner's motion to withdraw (Doc. 14) is hereby found to be **MOOT**. A separate final order will be entered.

DONE this the 2nd day of November, 2011.


VIRGINIA EMERSON HOPKINS
United States District Judge